

**REGULAR STATE CREDIT UNION BOARD MEETING  
HELD BY CONFERENCE CALL  
OFFICE OF THE COMMISSIONER  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
2000 SCHAFFER STREET, SUITE G  
BISMARCK, NORTH DAKOTA**

**December 17, 2004**

The regular meeting of the State Credit Union Board was called to order by Chairman Karsky in the Office of the Commissioner, Department of Financial Institutions, 2000 Schaffer Street, Suite G, Bismarck, North Dakota, at 9:31 a.m., Friday, December 17, 2004, by conference call.

MEMBERS PRESENT: Timothy J. Karsky, Chairman (*Office*)  
Judy A. Millar, Member (*West Fargo*)  
Ervin E. Mund, Member (*Bismarck*)  
Melanie Stillwell, Member (*Williston*)  
Steven S. Tonneson, Member (*Minot*)

MEMBERS ABSENT: None

ALSO PRESENT: Robert J. Entringer, Secretary (*Office*)  
Jim Laidlaw, Chief Examiner – Credit Unions (*Office*)  
Corey Krebs, FI Examiner (*Office*)  
Wayne Hatzenbuehler, FI Examiner (*Office*)  
Steve Davis, Capital Credit Union (*Office*)  
Deb Gallagher, Capital Credit Union (*Office*)  
Kermit Larson, North Dakota Credit Union League (*Office*)  
Denton Zubke, Dakota West Credit Union (*Watford City*)

**MINUTES PREVIOUSLY APPROVED BY MAIL**

The minutes for the regular meeting of September 3, 2004, had been previously mailed to the Board and approved.

## **CAPITAL CREDIT UNION, BISMARCK – ARTICLES OF AMENDMENT TO THE BYLAWS – ARTICLE VIII, SECTION 1, BOARD OF DIRECTORS**

Chairman Karsky asked President Gallagher to explain the purpose of the amendment to the bylaws.

President Gallagher indicated the change is to clarify that the Board must consist of no more than nine or fewer than five members. President Gallagher indicated this is essentially a housekeeping type of amendment because of the parenthetical reference to not less than five.

There was some discussion as to whether the credit union would be electing three Board members each year; however, it was concluded that was simply for the organizational meeting and that further language in this Section states that all members shall be elected for a three-year term subsequent to the fourth annual meeting of the credit union.

**It was moved by Member Mund, seconded by Member Millar, and unanimously carried to approve the Articles of Amendment to the Bylaws of Capital Credit Union, Bismarck.**

## **CAPITAL CREDIT UNION, BISMARCK – APPLICATION TO ESTABLISH A CREDIT UNION SERVICE ORGANIZATION**

Chairman Karsky indicated since President Gallagher is present at the meeting he would have her review this application.

President Gallagher indicated Steve Davis would review the application for the Board.

Mr. Davis indicated the credit union's intent is to offer investment services to its members, and that the types of products which will be offered are included on the second page of the application. He stated the credit union had visited with several different companies and finally concluded that Farmers Union was the agency they would like to partner with in offering these services. Mr. Davis indicated Farmers Union Insurance is well entrenched in the industry and has already established a track record of working with credit unions in a CUSO relationship. The entity would be in the form of a limited liability company and

would be an ownership split of 50% to the credit union and 50% to Farmers Union Service Association. Mr. Davis indicated the credit union is asking for a \$150,000 authorization; however, the initial investment would be \$25,000 by each of the members of the limited liability company, for an initial \$50,000 capitalization. Mr. Davis referred the Board to the third page of the application which includes the income and expense projections for six years which were based on Farmers Union's actual experience in working with other credit unions in this area, and it will be six years until the LLC will be able to generate a profit.

Chairman Karsky indicated this is the exact same type of CUSO that Western Cooperative Credit Union, Williston, and Town and Country Credit Union, Minot, are involved in. Chairman Karsky continued that in both of those situations the credit unions have come back to the State Credit Union Board and asked for authorization to increase their investment authorization, adding that the current situations do not appear to be profitable relationships with the credit union. Chairman Karsky continued that what the credit unions are telling the State Credit Union Board is that items that cannot be measured are the referrals from the insurance agency to the credit union for various services from the credit union, and that is felt to be a valuable service to be offered to its membership.

Chairman Karsky reviewed the requirements of Chapter 13-03-13, North Dakota Administrative Code, entitled Authorizations.

Member Tonneson inquired as to why the expenses in the projections are fixed at \$53,400 for all six years of the projection. Mr. Davis indicated that the numbers do include salary, that it is a conservative estimate on the high side, and that they are numbers the credit union had worked through with actual experience through Farmers Union. Mr. Davis indicated it certainly would not be a static number, but was on the high side and used simply for consistency.

Member Stillwell asked if the projections only reflect one employee, and Mr. Davis indicated that was correct, adding that the income and expenses are based on salary and commissions.

Chairman Karsky asked Member Stillwell if that is how Western Cooperative Credit Union's CUSO worked. Member Stillwell indicated the original intent was that it would be a base salary with commissions and eventually would be strictly commissions; however, that has never been achieved. Member Stillwell added that the credit union does have a part-time employee that supports its agent and they are

starting on their eighth year and have yet to see a profit. Member Stillwell continued that the losses are declining for their CUSO, and added that as Chairman Karsky indicated the amount of business gained from referrals is not measurable. Member Stillwell added that the expenses in their situation are considerably above what the projection for Capital Credit Union includes.

Chairman Karsky indicated the original request was significantly less for the authorization amount, but given the projected losses he asked the credit union to increase its request to \$150,000 so that they did not have to come back in a year or two and ask the State Credit Union Board for authority to increase its investment. Chairman Karsky also added that it should be remembered that every time Capital Credit Union invests an amount in the CUSO, that amount will be matched by Farmers Union Service Association.

Member Mund asked about the types of products being sold including securities and mutual funds, and questioned whether Farmers Union had the authority to sell these because it would result in a NASD registration. Member Mund indicated if securities and mutual funds will be offered, you will end up with a series 6 or series 7 agent, which will increase your expenses.

**It was moved by Member Millar to approve the application by Capital Credit Union, Bismarck, to invest up to \$150,000 in a CUSO, and to authorize Chairman Karsky to sign an Order on behalf of the Board. Member Tonneson seconded the motion and the motion was unanimously carried.**

President Gallagher and Mr. Davis left the meeting at 9:50 a.m.

Denton Zubke, Dakota West Credit Union, Watford City, joined the meeting by conference call at 9:52 a.m.

## **DAKOTA WEST CREDIT UNION, WATFORD CITY – APPLICATION TO MERGE WITH RIVERDALE FEDERAL CREDIT UNION, RIVERDALE**

Chairman Karsky indicated the statute requires the credit union to file an application with the State Credit Union Board; however, the Department does not have a formal merger application. Before going through the requirements of the North Dakota Administrative Code, Chairman Karsky asked CEO Zubke to review the reason for the merger application.

CEO Zubke indicated the Board is familiar with the fact that the credit union had established a branch in Washburn which was in the credit union's existing field of membership. CEO Zubke indicated through that process he had received a phone call from the manager of the Riverdale Federal Credit Union, who indicated the Riverdale Federal Credit Union had been considering for some time establishing a branch in Washburn and when Dakota West Credit Union was given authority to establish the branch in Washburn, the Riverdale Federal Credit Union Board discussed the prospect of merging with Dakota West Credit Union. CEO Zubke indicated the Riverdale Federal Credit Union Board had looked at the prospect of establishing reserves in order to be able to offer additional services, such as debit cards and credit cards to its members, and in order to do that the credit union had considered expanding its field of membership to Washburn. When Dakota West Credit Union received authority to establish a branch in Washburn it became a natural fit for the Riverdale Federal Credit Union to approach Dakota West Credit Union regarding a possible merger.

Chairman Karsky asked CEO Zubke about the field of membership of Riverdale Federal Credit Union, which is a 20 mile radius of Riverdale; in particular why the credit union limited itself to such a small field of membership. CEO Zubke indicated he did not know any history as to why the Riverdale Federal Credit Union never did expand its field of membership or established it at 20 miles. CEO Zubke indicated the Riverdale Federal Credit Union is approximately \$3 million in assets, with approximately \$2 million in loans.

Chairman Karsky asked the size of Dakota West Credit Union, and CEO Zubke indicated it is approximately \$40 million in assets, with approximately \$32 million in loans.

Chairman Karsky reviewed the requirements for a merger found in North Dakota Administrative Code Chapter 13-03-05. Chairman Karsky indicated the Resolution from the Dakota West Credit Union was approved by its Board on August 23, 2004, and the Resolution from the Riverdale Federal Credit Union was approved by its Board on August 19, 2004. Next the membership had to approve the merger proposal and Dakota West Credit Union had a meeting on October 20, 2004, with all 14 members present voting in favor of the merger; and the Riverdale Federal Credit Union met on September 16, 2004, and 30 of the 33 members present voted in favor of the merger. The notice was published pursuant to the North Dakota Administrative Code. Chairman Karsky reviewed the only comment

received which was from the North Dakota Bankers Association in opposition to the merger. Chairman Karsky indicated all other areas of the law have been complied with.

Chairman Karsky reviewed the requirements for the Board to consider for approval of merger found in Chapter 13-03-05 of the North Dakota Administrative Code: proper notification was given to all members and no comments were received from any members; there was only one potential merger partner; and that the Department did conduct an examination of the Riverdale Federal Credit Union. Chairman Karsky indicated since the Board is in the open session of this meeting, the exam results will not be discussed until the closed session. Chairman Karsky indicated nothing was found in the examination that would result in the Department not approving the merger application.

**It was moved by Member Mund and seconded by Member Tonneson to approve the merger application by Dakota West Credit Union, Watford City, to merge with Riverdale Federal Credit Union, Riverdale.**

CEO Zubke indicated the NCUA has extended preliminary approval for the merger application.

Chairman Karsky added that the Department would recommend approval of the merger application.

CEO Zubke indicated the merger application does not include a request to expand the field of membership because the Riverdale Federal Credit Union field of membership is already encompassed in the existing field of membership of Dakota West Credit Union.

Member Millar asked CEO Zubke if he would be retaining the employees of the Riverdale Federal Credit Union, and CEO Zubke stated they would and that all the employees would have better benefits and the opportunity to make more money once they become employees of Dakota West Credit Union. CEO Zubke stated that information was not communicated to the employees prior to the membership vote; however, as soon as the vote was approved, CEO Zubke indicated he met with all of the employees and explained what they could expect.

Hearing no further discussion, **the motion was unanimously approved.**

## **DAKOTA WEST CREDIT UNION, WATFORD CITY – APPLICATION TO ESTABLISH A BRANCH IN RIVERDALE**

Chairman Karsky indicated since the merger application has been approved, Dakota West Credit Union would like to keep the location in Riverdale, and submitted a branch application subject to the requirements of Chapter 13-03-15 of the North Dakota Administrative Code. Chairman Karsky indicated all of the requirements have been met and there is no field of membership expansion. CEO Zubke addressed express need, and there certainly is a need to continue service to those existing members now that the merger application has been approved. CEO Zubke indicated no other credit union has expressed any opposition.

Chairman Karsky reviewed the items that the State Credit Union Board is to consider, indicating that the branch application is not accompanied by a request to expand the field of membership; there is no negative impact to another state or federally chartered credit union; the expressed need; any expressed opposition; and the credit union must demonstrate the ability to succeed, which is provided through the financial projections in the application.

Chairman Karsky indicated the Department received a letter of opposition from the North Dakota Bankers Association. CEO Zubke indicated the letter addresses field of membership expansion; however, neither Washburn nor Riverdale expand the credit union's field of membership. The field of membership was acquired through a merger with the Turtle Lake Community Credit Union, as it was a credit union on the verge of closing due to staffing problems and financial constraints. CEO Zubke stated he does not feel the comments by Counsel Foss were applicable to either the Washburn or Riverdale application.

Chairman Karsky indicated in the past the Assistant Attorney General Miller has indicated it is a factual determination that is up to the Board, and the Board's practice is consistent with what we are being asked to consider today.

**It was moved by Member Millar and seconded by Member Tonneson to approve the application by Dakota West Credit Union, Watford City, to establish a branch at 607 Dakota Avenue, Riverdale. The motion was unanimously approved.**

CEO Zubke left the conference call at 10:07 a.m.

The following members of the Board of Directors of North Dakota Air National Guard Credit Union, Fargo, joined the meeting by conference call at 10:08 a.m.: George Economon, Wayne Mercil, Robbi Foss, and Mary Hagen.

## **NORTH DAKOTA AIR NATIONAL GUARD CREDIT UNION, FARGO – APPLICATION TO EXPAND ITS FIELD OF MEMBERSHIP**

Assistant Commissioner Entringer reviewed his Memorandum and indicated the application is to expand the present field of membership from “members and employees of the North Dakota air national guard, members of the air force attached to the North Dakota air national guard, all national guard and reservist members of units and attached battalions within a 50 mile radius of the North Dakota Air National Guard Credit Union, employees of the North Dakota Air National Guard Credit Union and members of their immediate families” to “membership in the credit union is limited to individuals living within a 75 mile radius of Fargo and members of their immediate families”.

Assistant Commissioner Entringer reviewed Chapter 13-03-14 of North Dakota Administrative Code, which sets forth the parameters for a credit union to expand its field of membership:

1. If the expansion is for an open charter, the exact geographical boundaries, expressed by city, county, township, or highway boundaries, or a stated radius from the principal or branch office, must be clearly spelled out. The expansion is for an open charter and as required by the North Dakota Administrative Code sets a stated radius from the principal or branch office i.e. a 75 mile radius of Fargo, ND. In its March 18, 1988, Field of Membership Policy the State Credit Union Board set maximum field of membership for the principal office of a North Dakota state-chartered open charter credit union at a radius of 75 miles. Therefore this application is within the parameters of the board’s policy.
2. The negative impact to any other state or federally chartered credit union in the expanded area. Included with the application is a letter from CEO Hagen stating there should not be any negative impact to another credit union as they are not going to actively try and take business away from other credit unions. The Department has not received any negative comment from any credit union.



3. The expressed need in the expansion area. CEO Hagen also addresses this in her letter stating there are no open charter credit unions in north Fargo presently. Also the federal Base Closure Commission is looking at the North Dakota Air National Guard as a possible base for closure and if it occurs the credit union wants to be prepared.
4. Any expressed opposition to the expansion by any other credit union. The Department has not received any letters or comments opposing the application.
5. If the expansion is for an open charter, whether the area being considered is satisfactorily served by a currently operating credit union. As indicated the area of North Fargo does not have an open chartered credit union. Although the expansion area is quite large the application does not include a branch application so the area would likely be limited to North Fargo at this time.
6. The credit union must demonstrate the ability to succeed in expanding their field of membership. The anticipated profit included in the application shows a net profit for the first year of operation.
7. Relevant public comment in favor of or in opposition to expanding the field of membership. The Department has not received any comment relative to this application at the date of the writing of the Memorandum.

North Dakota Administrative Code Section 13-03-14-03 sets forth the application requirements in order for a credit union to expand its field of membership. Assistant Commissioner Entringer indicated all of the criteria in the North Dakota Administrative Code have been met as outlined in his Memorandum.

Chairman Karsky asked if the Board had any questions, and Member Tonneson inquired as to whether the credit union had any plans to expand into Minnesota. Mr. Economon indicated there are no plans to that affect at this time.

Chairman Karsky indicated as long as the credit union does not open a branch without first asking for permission, it can certainly accept members from Minnesota within the 75 mile radius.

Mr. Economon indicated the credit union has no campaign or process to solicit membership from Minnesota and added that the credit union is located in far north Fargo and the people they are hoping to impact are in that area of town, as well as the community of north Fargo.

Member Tonneson asked if there were any plans to open a branch in the future, and Mr. Economon indicated not at this time.

Member Mund stated he has a problem with the 75 mile radius, and referred to the North Dakota Administrative Code which refers to a 50 mile radius, adding that the North Dakota Administrative Code was dated October 1997 and the policy referred to in Assistant Commissioner Entringer's Memorandum is March 1988. Member Mund stated it is his feeling the North Dakota Administrative Code which is newer would take precedence over a policy adopted nearly 10 years earlier.

Chairman Karsky referred to Section 13-03-14-01 of the North Dakota Administrative Code which states geographical boundaries means the outer perimeters of the area which may be served as expressed in the field of membership authority and may be expressed by city, county, township, or highway boundaries, or as a vicinity or trade area or trade territory which are defined as a radius of 50 miles, or a specifically stated radius from the principal office of the credit union. Chairman Karsky indicated it is his recollection that the reason this was defined as such is that there are many smaller credit unions that define their field of membership as a vicinity or trade area or trade territory, which was never defined. This Section of the North Dakota Administrative Code basically says if it was not defined, then you are limited to a 50 mile radius if your field of membership uses the words vicinity or trade area or trade territory. Chairman Karsky stated the State Credit Union Board then decided to adopt a policy that if you were going to define a specific radius, you could not go beyond 75 miles. Chairman Karsky reviewed the language of the 1988 Field of Membership Policy which set a maximum radius of 75 miles from the main office for a state-chartered credit union, and a maximum radius of 50 miles from a branch of a state-chartered credit union.

Assistant Commissioner Entringer indicated at the suggestion of the Department that the credit union applied for the 75 miles radius so that it could accommodate the membership from the Grand Forks Air Force Base in the event that the Base Closure Commission closed the North Dakota Air National Guard office in Fargo. Assistant Commissioner Entringer indicated the language within the North Dakota Administrative Code Member Mund referred to allows at the very

end a specifically stated radius from the principal office of the credit union, and that is what is being done.

**It was moved by Member Millar and seconded by Member Mund to approve the application by North Dakota Air National Guard Credit Union, Fargo, to expand its field of membership to a 75 mile radius of its principal office. The motion was unanimously carried.**

## **MEETING DATES FOR 2005**

The proposed meeting dates were the first Friday of March, June, September, and December; which would be March 4, June 3, September 2, and December 2, 2005. There was discussion about the date for September, and it was decided to set the 2005 meeting dates as March 4, June 3, September 16, and December 2.

The Board went into closed session at 10:39 a.m.

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Timothy J. Karsky, Chairman

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Robert J. Entringer, Secretary